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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,214	04/08/2004	Melissa Sue Modjeski	ROC920030385US1	9492

7590 10/10/2006

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EXAMINER

BIBBEE, JARED M

ART UNIT	PAPER NUMBER
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2169

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/821,214	Applicant(s) MODJESKI ET AL.	
	Examiner Jared M. Bibbee	Art Unit 2169	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/8/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 20 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 20 is failing to limit claim 17 due to the previous dependent claim 19. Claim 19 already restricts claim 17 to the limitation provided in claim 19.

Claim Rejections - 35 USC § 101

2. Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As to claims 1, there is no useful, clear, concrete, and tangible result being provided to the user. In claim 1, applicant loads a database driver based on the datasource configuration data and environment variable but is neither used in a disclosed practical application nor made available for use in support of a disclosed practical application.

As to claims 2-4, claims 2-4 are also directed towards non-statutory subject matter because they depend from claim 1 and are rejected under 35 U.S.C. 101 for the same reasons as stated in the rejection of claim 1 above.

In order to overcome the 35 U.S.C 101 rejection examiner suggests that applicant supply a step that produces a useful, clear, concrete, and tangible result to the user.

As to claim 5, claim 5 is an apparatus with a means plus function but in light of the description by applicant on page 10, lines 1-15, the means is software *per se*. In particular, applicant states, "various embodiments of the invention are capable of being distributed as a program product in a variety of forms". Therefore, the claim lacks the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. It is clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, it fails to fall within a statutory category. The claim, at best, is functional descriptive material *per se*.

As to claims 6-8, claims 6-8 are also directed towards non-statutory subject matter because they depend from claim 5 and are rejected under 35 U.S.C. 101 for the same reasons as stated in the rejection of claim 5 above.

In order to overcome the 35 U.S.C 101 rejection examiner suggests that applicant supply a step that produces a useful, clear, concrete, and tangible result to the user.

Note: That moving claims 7, 8 or both to claim 5 will not overcome the rejection of 35 U.S.C 101 because claims 7 and 8, according to applicant's specification, lack the means to produce a useful, clear, concrete, and tangible result to the user (See page 13, line 25). Even though the management bean reports the success or failure, applicant does not explicitly show that the report is relayed to the user at a computer terminal.

As to claim 9, claim 9 makes reference to a signal-bearing medium but in light of the description by applicant on page 10, lines 1-15, the claim could constitute some form of wave as a signal-bearing medium. Therefore, the claim lacks the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. It is clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, it fails to fall within a statutory category. The claim, at best, is functional descriptive material *per se*.

Also as to claims 9, there is no useful, clear, concrete, and tangible result being provided to the user. In claim 9, applicant attempts to connect to a database server via the database driver but is neither used in a disclosed practical application nor made available for use in support of a disclosed practical application.

As to claims 10-12, claims 10-12 are also directed towards non-statutory subject matter because they depend from claim 9 and are rejected under 35 U.S.C. 101 for the same reasons as stated in the rejection of claim 9 above.

In order to overcome the 35 U.S.C 101 rejection examiner suggests that applicant supply a step that produces a useful, clear, concrete, and tangible result to the user.

As to claims 13, there is no useful, clear, concrete, and tangible result being provided to the user. In claim 13, applicant attempts to connect to a database server via the database driver but is neither used in a disclosed practical application nor made available for use in support of a disclosed practical application.

As to claims 14-16, claims 14-16 are also directed towards non-statutory subject matter because they depend from claim 13 and are rejected under 35 U.S.C. 101 for the same reasons as stated in the rejection of claim 13 above.

In order to overcome the 35 U.S.C 101 rejection examiner suggests that applicant supply a step that produces a useful, clear, concrete, and tangible result to the user.

***Note:** That moving claims 15, 16 or both to claim 13 will not overcome the rejection of 35 U.S.C 101 because claims 15 and 16, according to applicant's specification, lack the means to produce a useful, clear, concrete, and tangible result to the user (See page 13, line 25). Even though the management bean reports the success or failure, applicant does not explicitly show that the report is relayed to the user at a computer terminal.*

As to claim 17, claim 17 comprises the steps of configuring and does not explicitly recite the step, which presents a useful, clear, concrete, and tangible result. The steps of configuring the computer are not enough to be considered statutory subject matter.

As to claims 18-20, claims 18-20 are also directed towards non-statutory subject matter because they depend from claim 17 and are rejected under 35 U.S.C. 101 for the same reasons as stated in the rejection of claim 17 above.

In order to overcome the 35 U.S.C. 101 rejection, the examiner suggest adding an additional step which portrays a useful, clear, concrete, and tangible result to the user.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 5, 9, 13, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "scope data" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "scope data" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "scope data" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitation "scope data" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "scope data" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1-20 are rejected under 35 U.S.C. 102(a) as being anticipated by ("IBM WebSphere Application Server V5.0 System Management and Configuration: Websphere Handbook Series" published by IBM), henceforth cited as "WebSphere".

As to claim 1, WebSphere clearly teaches a method comprising: receiving a scope level (see page 1, section 15.7.1, step 3); finding datasource configuration data based on the scope level (see page 4-5, section 15.7.2, focusing in on steps 3-6); finding an environment variable based on the scope data (see page 4, Tip 1-3; Note that the data source can be configured to use environmental variables to make the data source available on multiple nodes.); and loading a database driver based on the datasource configuration data and the environment variable (see page 4, Tip).

As to claim 2, WebSphere clearly teaches the limitation of comprising: attempting a connection to a database server via the database driver (see page 7, step 7; Note that the connection pool uses a minimum and maximum pool size and a connection timeout to make database connections to multiple application servers.).

As to claim 3, WebSphere clearly teaches the limitation of finding the datasource configuration data further comprises: determining whether the datasource configuration data exists at a current scope level (see page 4-5, 7, and 8; Note that the scope level is selected and then the datasource is selected and stored within a properties table. After the datasource is selected the system establishes a connection pool, which contains a series of connection timeouts. These timeouts determine whether the connection properties are correct and that a connection can be made to the database.).

As to claim 4, WebSphere clearly teaches the limitation of finding the environment variable further comprises: determining whether the environment variable

exists at a current scope (see page 4-5, 7, and 8; Note that the scope level is selected and then the datasource is selected and stored within a properties table or an environmental variable is used to store the elements of the properties table. After the datasource is selected the system establishes a connection pool, which contains a series of connection timeouts. These timeouts determine whether the connection properties are correct and that a connection can be made to the database.).

As to claim 5, claim 5 is an apparatus claim corresponding to method claim 1 but further adds the limitation of attempting a connection to a database server via the database driver. Claim 5 is rejected for the same reasons as set forth in the rejection of claim 1 above and the added limitation corresponds to the method claim 2 and therefore is rejected for the same reasons set forth in the rejection of claim 2 above.

As to claim 6, claim 6 is an apparatus claim corresponding to the method claim 4 and is rejected for the same reasons set forth by claim 4 above.

As to claim 7, WebSphere clearly teaches the limitation of a means for reporting success if the connection is successful (see section 9.5.2, page 3; Note the Installation Verification Test (IVT) reports both success and failure to the application.).

As to claim 8, WebSphere clearly teaches the limitation of a means for reporting failure if the connection fails (see section 9.5.2, page 3; Note the Installation Verification Test (IVT) reports both success and failure to the application.).

As to claim 9, claim 9 is a signal-bearing medium claim corresponding to method claim 1 but further adds the limitations of determining whether the datasource configuration data exists at a current scope level and attempting a connection to a database server via the database driver. Claim 9 is rejected for the same reasons as set forth in the rejection of claim 1 above and the added limitation of determining

whether the datasource configuration data exists at a current scope level corresponds to the method claim 3 and therefore is rejected for the same reasons set forth in the rejection of claim 3 above. As for the limitation of attempting a connection to a database server via the database driver, this limitation corresponds to the method claim 2 and therefore is rejected for the same reasons set forth in the rejection of claim 2 above.

As to claim 10, claim 10 is an signal-bearing medium claim corresponding to the method claim 4 and is rejected for the same reasons set forth by claim 4 above.

As to claim 11, WebSphere clearly teaches the limitation of reporting success if the connection is successful (see section 9.5.2, page 3; Note the Installation Verification Test (IVT) reports both success and failure to the application.).

As to claim 12, WebSphere clearly teaches the limitation of reporting failure if the connection fails (see section 9.5.2, page 3; Note the Installation Verification Test (IVT) reports both success and failure to the application.).

As to claim 13, claim 13 is a computer system claim corresponding to method claim 1 but further adds the limitations of determining whether the datasource configuration data exists at a current scope level and attempting a connection to a database server via the database driver. Claim 13 also incorporates a processor and memory encoded with instructions. As to the processor and memory encoded with instructions, WebSphere in and of itself is an application that runs on a computer and it is inherent that a computer has a processor and memory with instructions that run the WebSphere application. The rest of claim 13 is rejected for the same reasons as set

forth in the rejection of claim 1 above and the added limitation of determining whether the datasource configuration data exists at a current scope level corresponds to the method claim 3 and therefore is rejected for the same reasons set forth in the rejection of claim 3 above. As for the limitation of attempting a connection to a database server via the database driver, this limitation corresponds to the method claim 2 and therefore is rejected for the same reasons set forth in the rejection of claim 2 above.

As to claim 14, claim 14 is an apparatus claim corresponding to the method claim 4 and is rejected for the same reasons set forth by claim 4 above.

As to claim 15, WebSphere clearly teaches the limitation of reporting success if the connection is successful (see section 9.5.2, page 3; Note the Installation Verification Test (IVT) reports both success and failure to the application.).

As to claim 16, WebSphere clearly teaches the limitation of reporting failure if the connection fails (see section 9.5.2, page 3; Note the Installation Verification Test (IVT) reports both success and failure to the application.).

As to claim 17, WebSphere clearly teaches a method of configuring a computer to perform the method comprising: configuring the computer to receive a scope level (see page 1, section 15.7.1, step 3); configuring the computer to find datasource configuration data based on the scope level (see page 4-5, section 15.7.2, focusing in on steps 3-6); configuring the computer to find an environment variable based on the scope data (see page 4, Tip 1-3; Note that the data source can be configured to use environmental variables to make the data source available on multiple nodes.); and configuring the computer to load a database

driver based on the datasource configuration data and the environment variable (see page 4, Tip).

As to claim 18, WebSphere clearly teaches the limitation of comprising: configuring the computer to attempting a connection to a database server via the database driver (see page 7, step 7; Note that the connection pool uses a minimum and maximum pool size and a connection timeout to make database connections to multiple application servers.).

As to claim 19, WebSphere clearly teaches the limitation of configuring the computer to find the environment variable further comprises: configuring the computer to determining whether the environment variable exists at a current scope (see page 4-5, 7, and 8; Note that the scope level is selected and then the datasource is selected and stored within a properties table or an environmental variable is used to store the elements of the properties table. After the datasource is selected the system establishes a connection pool, which contains a series of connection timeouts. These timeouts determine whether the connection properties are correct and that a connection can be made to the database.).

As to claim 20, WebSphere clearly teaches the limitation of configuring the computer to determining whether the environment variable exists at a current scope (see page 4-5, 7, and 8; Note that the scope level is selected and then the datasource is selected and stored within a properties table or an environmental variable is used to store the elements of the properties table. After the datasource is selected the system establishes a connection pool, which contains a series of connection timeouts. These timeouts determine whether the connection properties are correct and that a connection can be made to the database.).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Doshi et al (U.S. 2005/0216781 A1) is cited to teach a method and system of alert notification.

Sehgal et al (U.S. 2003/0195765 A1) is cited to teach a data exchange method and system.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared M. Bibbee whose telephone number is 571-270-1054. The examiner can normally be reached on 5/4/9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christian Chace can be reached on 571-272-4190. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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